From: Jim Campbell
To: "John M Gore"; Kisch, Lori (CRT)
Cc: Lareau, Alyssa (CRT); Vaughan, Aria (CRT); Berwick, Benjamin L. (CIV); Stephens, Bob; Stewart, William; Bowers, Karl; Phoenix, Candyce (CRT); Christopher Brook; Pratt, Carolyn; Caleb Dalton; Stoughton, Corey (CRT); Chase Strangio; cynthia.robertson@pillsburylaw.com; David Cortman; Dewart, Deborah; Bensing, Dwayne (CRT); Elizabeth Gill; Nestler, Emily B. (CIV); Gordon, Fran k; Nager, Glen; Gene Schaerr; Lee, Jason (CIV); Jon Davidson; James Esseks; La Rue, Joseph; Burnham, James; Newton, Jonathan (CRT); Jeremy Tedesco; Ken Connelly; Kyle Duncan; Kerri Elliott; Kyle Palazzolo; Kristen Waggoner; Platzer, Luke C.; mark@sigmonlawfirm.com; Matt Sharp; nathaniel.smith@pillsburylaw.com; Francisco, Noel; Peter Renn; Smith, Paul M.; Robert Potter; Driscoll, Robert; Rand, Ripley (USANCM); Keveney, Sean R (CRT); Wilkens, Scott B.; Tara Borelli; Brooks, Tyler; Ziko, Thomas; Cummings, Torey (CRT); Tim Shail; Pellegrino, Whitney (CRT); Gary McCaleb; Nathaniel Bruno; Doug Wardlow
Subject: RE: Proposal for limitation of witnesses
Date: Monday, August 29, 2016 11:50:35 AM
Attachments: logoa8ebe7

Counsel for NCFP is also available at 3:30.

ALLIANCE DEFENDING FREEDOM
FOR FAITH. FOR JUSTICE.

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From: John M Gore [mailto:jmgore@JonesDay.com]
Sent: Monday, August 29, 2016 8:48 AM
To: Kisch, Lori (CRT)
Cc: Lareau, Alyssa (CRT); Vaughan, Aria (CRT); Berwick, Benjamin L. (CIV); Stephens, Bob; Stewart, William; Bowers, Karl; Phoenix, Candyce (CRT); Christopher Brook; Pratt, Carolyn; Caleb Dalton; Stoughton, Corey (CRT); Chase Strangio; cynthia.robertson@pillsburylaw.com; David Cortman; Dewart, Deborah; Bensing, Dwayne (CRT); Elizabeth Gill; Nestler, Emily B. (CIV); Gordon, Fran k; Nager, Glen; Gene Schaerr; Lee, Jason (CIV); Jim Campbell; Jon Davidson; James Esseks; La Rue, Joseph; Burnham, James; Newton, Jonathan (CRT); Jeremy Tedesco; Ken Connelly; Kyle Duncan; Kerri Elliott; Kyle Palazzolo; Kristen Waggoner; Platzer, Luke C.; mark@sigmonlawfirm.com; Matt Sharp; nathaniel.smith@pillsburylaw.com; Francisco, Noel; Peter Renn; Smith, Paul M.; Robert Potter; Driscoll, Robert; Rand, Ripley (USANCM); Keveney, Sean R (CRT); Wilkens, Scott B.; Tara Borelli; Brooks, Tyler; Ziko, Thomas; Cummings, Torey (CRT); Tim Shail; Pellegrino, Whitney (CRT)
Subject: Re: Proposal for limitation of witnesses

UNC Defendants are available at 3:30 as well.

John M. Gore (Bio)
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From: "Kisch, Lori (CRT)" <Lori.Kisch@usdoj.gov>

To: Kyle Duncan <kduncan@schaerr-duncan.com>
Cc: "Wilkens, Scott B." <SWilkens@jenner.com>, "Stoughton, Corey (CRT)" <Corey.Stoughton@usdoj.gov>, "Gore, John" <jmgore@jonesday.com>, "Tara Borelli" <tborelli@lambdalegal.org>, "Lareau, Alyssa (CRT)" <Alyssa.Lareau@usdoj.gov>, "Vaughan, Aria (CRT)" <Aria.Vaughan@usdoj.gov>, "Berwick, Benjamin L. (CIV)" <Benjamin.L.Berwick@usdoj.gov>, "Stephens, Bob" <bob.stephens@nc.gov>, "Stewart, William" <bstewart@mgsattorneys.com>, "Bowers, Karl" <butch@butchbowers.com>, "Phoenix, Candyce (CRT)" <Candyce.Phoenix@usdoj.gov>, Christopher Brook <cbrook@acluofnc.org>, "Pratt, Carolyn" <ccpratt@northcarolina.edu>, "Dalton, Caleb" <cdalton@ADFlegal.org>, Chase Strangio <cstrangio@aclu.org>, "cynthia.robertson@pillsburylaw.com" <cynthia.robertson@pillsburylaw.com>, David Cortman <dcortman@adflegal.org>, "Dewart, Deborah" <debcpalaw@earthlink.net>, "Bensing, Dwayne (CRT)" <Dwayne.Bensing@usdoj.gov>, Elizabeth Gill <egill@aclunc.org>, "Nestler, Emily B. (CIV)" <Emily.B.Nestler@usdoj.gov>, "Gordon, Fran k" <fgordon@mgsattorneys.com>, "Nager, Glen" <gdnager@jonesday.com>, "Gene Schaerr" <gschaerr@schaerr-duncan.com>, "Lee, Jason (CIV)" <Jason.Lee3@usdoj.gov>, "Campbell, James" <jcampbell@ADFlegal.org>, "Jon Davidson" <jdavidson@lambdalegal.org>, James Esseks <jesseks@aclu.org>, "La Rue, Joseph" <jlar_ue@adflegal.org>, "Burnham, James" <jmburnham@jonesday.com>, "Newton, Jonathan (CRT)" <Jonathan.Newton@usdoj.gov>, Jeremy Tedesco <jtedesco@adflegal.org>, "Connelley, Kenneth" <kconnelly@ADFlegal.org>, Kerri Elliott <kelliott@mgsattorneys.com>, Kyle Palazzolo <kpalazzolo@lambdalegal.org>, "Waggoner, Kristen" <kwaggoner@adflegal.org>, "Platzer, Luke C." <LPlatzer@jenner.com>, "mark@sigmonlawfirm.com" <mark@sigmonlawfirm.com>, "Sharp, Matthew" <msharp@adflegal.org>, "nathaniel.smith@pillsburylaw.com" <nathaniel.smith@pillsburylaw.com>, "Francisco, Noel" <njfrancisco@jonesday.com>, Peter Renn <prenn@lambdalegal.org>, "Smith, Paul M." <PSmith@jenner.com>, Robert Potter <rdpotter@rdpotterlaw .com>, "Driscoll, Robert" <rdriscoll@mcglinchey.com>, "Rand, Ripley (USANCM)" <Ripley.Rand@usdoj.gov>, "Keveney, Sean R (CRT)" <Sean.R.Keveney@usdoj.gov>, "Brooks, Tyler" <tbrooks@mgsattorneys.com>, "Ziko, Thomas" <thomasjziko@gmail.com>, "Cummings, Torey (CRT)" <Torey.Cummings@usdoj.gov>, Tim Shail <tshail@mgsattorneys.com>,

"Pellegrino, Whitney (CRT)" <Whitney.Pellegrino@usdoj.gov>

Date: 08/29/2016 11:47 AM
Subject: Re: Proposal for limitation of witnesses

Plaintiff United States is available at 3:30.

On Aug 29, 2016, at 11:40 AM, Kyle Duncan <kduncan@schaerr-duncan.com<mailto:kduncan@schaerr-duncan.com>> wrote:

Scott,

The Intervenor Defendants are available later this afternoon, after 3:30 pm EDT. We were just waiting on other defendants to weigh in on their availability for a call this afternoon.

Thanks,
Kyle

Kyle Duncan
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The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

On Aug 29, 2016, at 10:43 AM, Wilkens, Scott B. <SWilkens@jenner.com<mailto:SWilkens@jenner.com>> wrote:

Following up on Corey's email below, are Defendants available this afternoon for a call to discuss numerical limits on depositions?

Thanks,
Scott

-----Original Message-----
From: Stoughton, Corey (CRT) [mailto:Corey.Stoughton@usdoj.gov]
Sent: Friday, August 26, 2016 8:42 PM
To: Wilkens, Scott B.; Gore, John
Cc: Tara Borelli; Alyssa Lareau; Aria Vaughan; Benjamin Berwick; Stephens, Bob; Stewart, William; Bowers, Karl; Candyce Phoenix; Christopher Brook; Pratt, Carolyn; Dalton, Caleb; Chase Strangio; cynthia.robertson@pillsburylaw.com<mailto:cynthia.robertson@pillsburylaw.com>; David Cortman; Dewart, Deborah; Dwayne Bensing; Elizabeth Gill; Nestler, Emily B. (CIV); Gordon, Frank; Nager, Glen; Schaerr, Gene; Lee, Jason (CIV); Campbell, James; Jon Davidson; James Esseks; La Rue, Joseph; Burnham, James; Jonathan Newton; Jeremy Tedesco; Connelley, Kenneth; Duncan, Kyle; Kerri Elliott; Kyle Palazzolo; Waggoner, Kristen; Lori Kisch; Platzer, Luke C.; mark@sigmonlawfirm.com<mailto:mark@sigmonlawfirm.com>; Sharp, Matthew; nathaniel.smith@pillsburylaw.com<mailto:nathaniel.smith@pillsburylaw.com>; Francisco, Noel; Peter Renn; Smith, Paul M.; Robert Potter; Driscoll, Robert; Ripley Rand; Sean r. Keveney; Brooks, Tyler; Ziko, Thomas; Torey Cummings; Tim Shail; Whitney Pellegrino; Lori Kisch
Subject: RE: Proposal for limitation of witnesses

The United States agrees with Scott's email below; reducing the time for President Spellings' deposition cannot be part of this arrangement. I hope we can return to the broader discussion of whether numerical limits on depositions can be agreed upon, along with perhaps limits on some of the other individual depositions previously discussed. Looking forward to hearing the defendants' further views on that. If it is helpful, we could be available for a call to discuss where we stand on this Monday afternoon.

Thanks,
Corey

Corey Stoughton
Senior Counsel, DOJ-Civil Rights
(202) 616-2124

-----Original Message-----
From: Wilkens, Scott B. [mailto:SWilkens@jenner.com]
Sent: Friday, August 26, 2016 8:14 PM
To: Gore, John <jmgore@jonesday.com<mailto:jmgore@jonesday.com>>
Cc: Tara Borelli <tborelli@lambdalegal.org<mailto:tborelli@lambdalegal.org>>; Lareau, Alyssa (CRT) <Alyssa.Lareau@crt.usdoj.gov<mailto:Alyssa.Lareau@crt.usdoj.gov>>; Vaughan, Aria (CRT) <Aria.Vaughan@crt.usdoj.gov<mailto:Aria.Vaughan@crt.usdoj.gov>>; Berwick, Benjamin L. (CIV) <BBerwick@civ.usdoj.gov<mailto:BBerwick@civ.usdoj.gov>>; Stephens, Bob <bob.stephens@nc.gov<mailto:bob.stephens@nc.gov>>; Stewart, William <bstewart@mgsattorneys.com<mailto:bstewart@mgsattorneys.com>>; Bowers, Karl <butch@butchbowers.com<mailto:butch@butchbowers.com>>; Phoenix, Candyce (CRT) <Candyce.Phoenix@crt.usdoj.gov<mailto:Candyce.Phoenix@crt.usdoj.gov>>; Christopher Brook <cbrook@acluofnc.org<mailto:cbrook@acluofnc.org>>; Pratt, Carolyn <ccpratt@northcarolina.edu<mailto:ccpratt@northcarolina.edu>>; Dalton, Caleb <cdalton@ADFlegal.org<mailto:cdalton@adflegal.org>>; Stoughton, Corey (CRT) <Corey.Stoughton@crt.usdoj.gov<mailto:Corey.Stoughton@crt.usdoj.gov>>; Chase Strangio <cstrangio@aclu.org<mailto:cstrangio@aclu.org>>; cynthia.robertson@pillsburylaw.com<mailto:cynthia.robertson@pillsburylaw.com>; David Cortman <dcortman@adflegal.org<mailto:dcortman@adflegal.org>>; Dewart, Deborah <debcpalaw@earthlink.net<mailto:debcpalaw@earthlink.net>>; Bensing, Dwayne (CRT) <Dwayne.Bensing@crt.usdoj.gov<mailto:Dwayne.Bensing@crt.usdoj.gov>>; Elizabeth Gill <egill@aclunc.org<mailto:egill@aclunc.org>>; Nestler, Emily B. (CIV) <enestler@CIV.USDOJ.GOV<mailto:enestler@civ.usdoj.gov>>; Gordon, Frank <fgordon@mgsattorneys.com<mailto:fgordon@mgsattorneys.com>>; Nager, Glen <gdnager@jonesday.com<mailto:gdnager@jonesday.com>>; Schaerr, Gene <GSchaerr@Schaerr-Duncan.com<mailto:GSchaerr@schaerr-duncan.com>>; Lee, Jason (CIV) <jasolee@CIV.USDOJ.GOV<mailto:jasolee@civ.usdoj.gov>>; Campbell, James <jcampbell@ADFlegal.org<mailto:jcampbell@adflegal.org>>; Jon Davidson <jdavidson@lambdalegal.org<mailto:jdavidson@lambdalegal.org>>; James Esseks <jesseks@aclu.org<mailto:jesseks@aclu.org>>; La Rue, Joseph <jlar ue@adflegal.org<mailto:jlar ue@adflegal.org>>; Burnham, James <jmburnham@jonesday.com<mailto:jmburnham@jonesday.com>>; Newton, Jonathan (CRT) <Jonathan.Newton@crt.usdoj.gov<mailto:Jonathan.Newton@crt.usdoj.gov>>; Jeremy Tedesco <jtedesco@adflegal.org<mailto:jtedesco@adflegal.org>>; Connelley, Kenneth <kconnelly@ADFlegal.org<mailto:kconnelly@adflegal.org>>; Duncan, Kyle <KDuncan@Schaerr-Duncan.com<mailto:KDuncan@schaerr-duncan.com>>; Kerri Elliott <kelliott@mgsattorneys.com<mailto:kelliott@mgsattorneys.com>>; Kyle Palazzolo <kpalazzolo@lambdalegal.org<mailto:kpalazzolo@lambdalegal.org>>; Waggoner, Kristen <kwaggoner@adflegal.org<mailto:kwaggoner@adflegal.org>>; Kisch, Lori (CRT) <Lori.Kisch@crt.usdoj.gov<mailto:Lori.Kisch@crt.usdoj.gov>>; Platzer, Luke C. <LPlatzer@jenner.com<mailto:LPlatzer@jenner.com>>; mark@sigmonlawfirm.com<mailto:mark@sigmonlawfirm.com>; Sharp, Matthew <msharp@adflegal.org<mailto:msharp@adflegal.org>>; nathaniel.smith@pillsburylaw.com<mailto:nathaniel.smith@pillsburylaw.com>; Francisco, Noel <njfrancisco@jonesday.com<mailto:njfrancisco@jonesday.com>>; Peter Renn <prenn@lambdalegal.org<mailto:prenn@lambdalegal.org>>; Smith, Paul M. <PSmith@jenner.com<mailto:PSmith@jenner.com>>; Robert Potter <rdpotter@rdpotterlaw.com<mailto:rdpotter@rdpotterlaw.com>>; Driscoll, Robert <rdriscoll@mcglinchey.com<mailto:rdriscoll@mcglinchey.com>>; Rand, Ripley (USANCM) <Ripley.Rand@usdoj.gov<mailto:Ripley.Rand@usdoj.gov>>; Keveney, Sean R (CRT) <Sean.Keveney@crt.usdoj.gov<mailto:Sean.Keveney@crt.usdoj.gov>>; Brooks, Tyler <tbrooks@mgsattorneys.com<mailto:tbrooks@mgsattorneys.com>>; Ziko, Thomas <thomasjziko@gmail.com<mailto:thomasjziko@gmail.com>>; Cummings, Torey (CRT) <Torey.Cummings@crt.usdoj.gov<mailto:Torey.Cummings@crt.usdoj.gov>>; Tim Shail <tshail@mgsattorneys.com<mailto:tshail@mgsattorneys.com>>; Pellegrino, Whitney (CRT) <Whitney.Pellegrino@crt.usdoj.gov<mailto:Whitney.Pellegrino@crt.usdoj.gov>>
Subject: Re: Proposal for limitation of witnesses

John:

The Carcano Plaintiffs do not agree to such a limit for Margaret Spellings, who if memory serves is the only fact witness UNC has identified. She is not a party alleging any harm and at this point cannot plausibly be characterized as a non-party fact witness. Particularly in light of today's preliminary injunction decision, she is of central importance in this matter. If UNC can articulate a principled basis for limiting her deposition, we will consider it, but absent some extraordinary circumstances we don't understand how her deposition can be so limited.

Regards,
Scott

On Aug 26, 2016, at 6:46 PM, John M Gore <jmgore@JonesDay.com<mailto:jmgore@jonesday.com><mailto:jmgore@jonesday.com>> wrote:

Counsel:

In response to the question below, the UNC Defendants are amenable to the four-hour limits proposed by the Carcano plaintiffs for parties alleging harm and by DOJ for non-party fact witnesses, provided those limits are available fairly across the board to defendants and defense witnesses, including Margaret Spellings.

Thanks.

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From: Tara Borelli <tborelli@lambdalegal.org<mailto:tborelli@lambdalegal.org><mailto:tborelli@lambdalegal.org>>
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Date: 08/26/2016 03:41 PM
Subject: RE: Proposal for limitation of witnesses

Counsel:

This email responds both to the proposed deposition schedule, and the proposal for deposition limitations described in the email correspondence below:

With respect to the proposed deposition schedule, the Carcaño plaintiffs have a few conflicts, in addition to the ones outlined by the United States, and propose the following changes:

Fact:
- Move Glazier from 9/1 to morning of 9/22.
- Move R.F. deposition from Sanford to Charlotte so attorney can take both D.H. and R.F. that day.
- Move H.S. from 9/12 to 9/22 in Winston-Salem (not Raleigh).
- Move McGarry from 9/22 to 9/12.
- Move Preston from 9/14 to morning of 9/12 (in Raleigh).
- Keep Solomon on 9/19 (Carcaño team cannot do 9/15 or 9/16) or find alternative date.
- Schedule Walker for afternoon on 9/13 (time currently unspecified).
- Add Katherine Schafer and Julie Hall-Panameno to schedule per availability previously provided.

Expert:
- Move Mull from 9/6 to 9/28; alternatively, Mull is available on 9/29, 10/3 or 10/4.

We note with regard to Margaret Spellings' deposition on 9/20 in Chapel Hill, we understand she will be available for a full day deposition consistent with the federal rules. If the UNC defendants are seeking to limit her deposition, please let us know immediately.

In addition to these changes, we are awaiting proposed dates for the depositions of the Governor and the legislative intervenors subject to the ongoing meet and confers.

With respect to the proposed deposition limitations, the Carcaño plaintiffs can also agree to the proposal with the modifications identified by the United States, plus the following changes:
- Total number of expert witnesses per side is 6.
- We do not agree to a 4-hour limit for non-medical experts and non-party fact witnesses.
- Additional time limits of 4-hour depositions for parties and fact witnesses alleging harm (with 30 minutes for the other side).

We look forward to your response.

Best,
Tara

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Scott B. Wilkens

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-----Original Message-----
From: Stoughton, Corey (CRT) [mailto:Corey.Stoughton@usdoj.gov]
Sent: Thursday, August 25, 2016 7:01 PM
To: Driscoll, Robert
Cc: swilkens@jenner.com<mailto:swilkens@jenner.com><mailto:swilkens@jenner.com>; Bowers, Karl; Kisch, Lori (CRT); Brooks, Tyler; cstrangio@aclu.org<mailto:cstrangio@aclu.org><mailto:cstrangio@aclu.org>; egill@aclunc.org<mailto:egill@aclunc.org> <mailto:egill@aclunc.org>; jesseks@aclu.org<mailto:jesseks@aclu.org><mailto:jesseks@aclu.org>; Jon Davidson; Kyle Palazzolo; LPlatzer@jenner.com<mailto:LPlatzer@jenner.com><mailto:LPlatzer@jenner.com>; psmith@jenner.com<mailto:psmith@jenner.com> <mailto:psmith@jenner.com>; Peter Renn; Tara Borelli; Christopher Brook; Gore, John; Ziko, Thomas; Pratt, Carolyn; Nager, Glen; Burnham, James; Francisco, Noel; mark@sigmonlawfirm.com<mailto:mark@sigmonlawfirm.com><mailto:mark@sigmonlawfirm.com>; cynthia.robertson@pillsburylaw.com<mailto:cynthia.robertson@pillsburylaw.com><mailto:cynthia.robertson@pillsburylaw.com>; nathaniel.smith@pillsburylaw.com<mailto:nathaniel.smith@pillsburylaw.com><mailto:nathaniel.smith@pillsburylaw.com>; Lareau, Alyssa (CRT); Vaughan, Aria (CRT); Phoenix, Candyce (CRT); Bensing, Dwayne (CRT); Newton, Jonathan (CRT); Rand, Ripley (USANCM); Keveney, Sean R (CRT); Cummings, Torey (CRT); Pellegrino, Whitney (CRT); Schaerr, Gene; Duncan, Kyle; Robert Potter; Stephens, Bob; Stewart, William; Tim Shail; David Cortman; Dewart, Deborah; Campbell, James; Jeremy Tedesco; Sharp, Matthew; Dalton, Caleb; La Rue, Joseph; Connelley, Kenneth; Waggoner, Kristen; Gordon, Frank; Kerri Elliott; Berwick, Benjamin L. (CIV); Nestler, Emily B. (CIV); Lee, Jason (CIV)
Subject: Re: Proposal for limitation of witnesses

Apologies if you receive this email twice; we have been having email problems all afternoon.

Bob,

Thank you for this extremely constructive proposal. In large measure, I think the United States can agree with it, with some modifications. In particular, we would propose a small increase in the number of fact witnesses for the plaintiff side, because we are concerned given the number of different claims among the plaintiffs about meeting our burden with 8 witnesses shared with Carcano plaintiffs. We also think it would serve the overall goal of reducing the burden of discovery to further limit the time for certain depositions.

As you noted on behalf of Defendants, this proposal has to be contingent on reaching some reasonable stipulations, some of which I proposed in general terms on the phone yesterday. As we also discussed on the phone, this proposal must include the NCFP v United States litigation even though it has not yet been consolidated for trial at this stage. We are amendable to excluding named parties from these caps, as Jim suggested, in order to make the inclusion of the NCFP case acceptable. And, of course, we understand all of this in contingent on the Court denying the motion to stay.

I will also add that, before we can make any final commitment to this arrangement, it would be critical to have some discussion about what witnesses would still be in play after the limitations were imposed, in order to have a clearer sense of what fact issues remain in play and whether we can address those within the limitations. One way to address this would be to negotiate this agreement in principle but reserve any party's final agreement until new lists of witnesses the parties intend to call at trial under this regime can be exchanged. With that said, here is our modified proposal:

1. Limiting total number of expert witnesses per side to 5

2. Limiting total number of fact witnesses to 10 for plaintiff side and 8 for defendants/NCFP

3. Named parties in any of the cases, including witnesses offered in response to a 30(b)(6) notice directed at a named party, are excluded from the witness caps.

4. Additional time limits of 4 hour depositions for all non-medical experts and non-party fact witnesses (with the extra 30 minute period discussed for the other side)

On a related subject, and without necessarily suggesting these would be among our 5 experts if we proceed with the limitations under discussion, we would propose October 6 for the deposition of Chief Magnus, in Tucson, and October 7 for Dr. Miner, in DC. Let us know if those dates work.

Thanks,
Corey

On Aug 24, 2016, at 2:41 PM, Driscoll, Robert <rdriscoll@mcglinchey.com<mailto:rdriscoll@mcglinchey.com>
<mailto:rdriscoll@mcglinchey.com<mailto:rdriscoll@mcglinchey.com%3cmailto:rdriscoll@mcglinchey.com<http://mcglinchey.com/>>>> wrote:

All:

In furtherance of our discussions on the call yesterday, and in making a good faith effort to limit the number of fact and expert witnesses (and hence depositions) to a reasonable number given the limited pre-trial schedule, the defendants and intervenor-defendants propose to reduce their proposed number of fact and expert witnesses. Please note that this proposal is contingent on (1) the court denying the pending motion to stay these proceedings; (2) the plaintiffs collectively agreeing to limit their fact and expert witnesses to a comparable number; and (3) the parties reaching reasonable stipulations that will eliminate some fact witnesses. With those caveats in mind, defendants and intervenor-defendants propose the following:

1. Limiting the total number of expert witnesses per side to 5.

2. Limiting the total number of fact witnesses per side to 8.

Stipulations to be proposed by the plaintiffs may result in reducing the number of these witnesses further. Finally, these limitations would not apply to North Carolina for Privacy's separate action, which has not been consolidated for trial.

Thank you,

Bob

Robert Neil Driscoll

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